

(TEXT OF FINAL APPROVAL BY THE HOUSE)
(MARCH 2, 2021)

COMMONWEALTH OF PUERTO RICO

19th Legislative
Assembly

1st. Ordinary
Session

HOUSE OF REPRESENTATIVES

H.Con.Res.1

JANUARY 4, 2021

Presented by representatives Hernández Montañez, Varela Fernández, Méndez Silva, Matos García, Rivera Ruiz de Porras, Aponte Rosario, Cardona Quiles, Cortés Ramos, Cruz Burgos, Díaz Collazo, Feliciano Sánchez, Fourquet Cordero, Higgins Cuadrado, Maldonado Martiz, Martínez Soto, Ortiz Lugo, Rivera Madera, Rivera Segarra, Rodríguez Negrón, Santa Rodríguez, Santiago Nieves, Soto Arroyo, Torres Cruz y Torres García

Directed to Internal Affairs Commission

To demand and summon the Congress of the United States of America to express itself, clearly and affirmatively, on the alternatives that it is willing to consider to resolve the political relationship between Puerto Rico and the United States of America, as well as request that, in its expression, promote a binding, inclusive and participatory process of all ideological sectors of Puerto Rico

Statement of Reasons

The policy maxim "government by consent" is a basic principle of democracy and the dignity of the human being. That ideal has been manifested in countless ways in different historical contexts, such as when the Thirteen Colonies revealed themselves to the metropolis, the United Kingdom, and the American Revolution took place and the eventual birth of the nation that we know today as the United States of America. It is so important the maxim of government by consent that, the founding fathers of the United States Constitution created a republican government, with three separate but equal

branches of government, and established the legitimacy of its actions through the universal suffrage of its citizens.

After the Spanish-American War and after the Treaty of Paris, Puerto Rico went from being a Spanish possession to being a possession of the United States. From 1898, our Island experienced a military government and, from 1900 and 1917, a civil one under the Foraker Act and the Jones Act, respectively. None of these laws were endorsed by Puerto Ricans, despite allowing the election of some government officials. For this reason, Puerto Rico remained a colony in the eyes of the United Nations, and the United States was obliged to submit reports to said international organization.

To address this situation, in 1950 Congress approved Law 600 which provides:

“Whereas the Congress of the United States by a series of enactments has progressively recognized the right of self-government of the people of Puerto Rico; and

Whereas under the terms of these congressional enactments an increasingly large measure of self-government has been achieved: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that, fully recognizing the principle of government by consent, this Act is now adopted in the nature of a compact so **that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption.**

SEC. 2. This Act shall be submitted to the qualified voters of Puerto Rico for acceptance or rejection through an island-wide referendum to be held in accordance with the laws of Puerto Rico. Upon the approval of this Act, by a majority of the voters participating in such referendum, the Legislature of Puerto Rico is authorized to call a constitutional convention to draft a constitution for the said island of Puerto Rico. **The said constitution shall provide a republican form of government and shall include a bill of rights.**

SEC. 3. Upon adoption of the constitution by the people of Puerto Rico, the President of the United States is authorized to transmit such constitution to the Congress of the United States if he finds that such constitution conforms to the applicable provisions of this Act and of the Constitution of the United States. Upon approval by the Congress the constitution shall become effective in accordance with its terms.

SEC. 4. Except as provided in section 5 of this Act, the Act entitled "An Act to provide a civil government for Porto Rico, and for other purposes", approved March 2,

1917, as amended, is hereby continued in force and effect and may hereafter be cited as the "Puerto Rican Federal Relations Act".

SEC. 5. At such time as the constitution of Puerto Rico becomes effective, the following provisions of such Act of March 2, 1917, as amended, shall be deemed repealed

(1) Section 2, except the paragraph added thereto by Public Law 362, Eightieth Congress, first session, approved August 5, 1947.

(2) Sections 4, 12, 12a, 13, 14, 15, 16, 17, 18, 18a, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 39, 40, 49, 49b, 50, 51, 52, 53, 56, and 57.

(3) The last paragraph in section 37.

(4) Section 38, except the second paragraph thereof which begins with the words "The Interstate Commerce Act" and ends with the words "shall not apply in Puerto Rico".

SEC. 6. All laws or parts of laws inconsistent with this Act are hereby repealed."

Law 600, therefore, was established under the principle of "government by consent" where Puerto Ricans would have to validate the congressional proposal with their votes. This happened on June 4, 1951, when, through a referendum, our citizens voted for Law 600 and push forward the drafting of a constitution.

The Constitution of the Commonwealth of Puerto Rico was approved by the People of Puerto Rico on March 3, 1952, through a referendum to that effect. The United States Congress validated the Constitution of Puerto Rico through Law 447 of 1952, which provides:

"Whereas the Act entitled "An Act to provide for the organization of a constitutional government by the people of Puerto Rico", approved July 3, 1950; **was adopted by the Congress as a compact with the people of Puerto Rico, to become operative upon its approval by the people of Puerto Rico:** and

Whereas the people of Puerto Rico overwhelmingly approved such Act in a referendum held on June 4, 1951, and a constitution for the Commonwealth of Puerto Rico was drafted by a constitutional convention held as provided by such Act from September 17, 1951, to February 6, 1952; and

Whereas such constitution was adopted by the people of Puerto Rico, by a vote of three hundred seventy-four thousand six hundred and forty-nine to eighty-two thousand nine hundred and twenty-three, in a referendum held on March 3, 1952; and

Whereas the President of the United States has declared that the constitution of the Commonwealth of Puerto Rico conforms fully with the applicable provisions of such Act of July 3, 1950, and of the Constitution of the United States, that it contains a bill of rights, and provides for a republican form of government, and has transmitted

the constitution of the Commonwealth of Puerto Rico to the Congress for its approval; and

Whereas the Congress has considered the constitution of the Commonwealth of Puerto Rico and has found it duly to conform to the above requirements: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the constitution of the Commonwealth of Puerto Rico which was drafted by the selected delegates to the Constitutional Convention of Puerto Rico and adopted by the people of Puerto Rico in a referendum of March 3, 1952, in accordance with the Act entitled "An Act to provide for the organization of a constitutional government by the people of Puerto Rico", approved July 3, 1950 (64 Stat. 319; 48 U. S. C, sees. 731b- 73 1e), is hereby approved by the Congress of the United States,** except section 20 of article II of said constitution: Provided, That section 5 of article II thereof shall have no force and effect until amended by the people of Puerto Rico under the procedure prescribed by article VII of the constitution of the Commonwealth of Puerto Rico by adding to such section 5 the following declaration: "Compulsory attendance at elementary public schools to the extent permitted by the facilities of the state as herein provided shall not be construed as applicable to those who receive elementary education in schools established under nongovernmental auspices": Provided further, That except for the purpose of adopting the amendments to section 5 of article II and to section 3 of article VII as herein provided, article VII of said constitution likewise shall have no force and effect until amended by the people of Puerto Rico under the terms of said article by adding to section 3 of article VII the following new sentence: "**Any amendment or revision of this constitution shall be consistent with the resolution enacted by the Congress of the United States approving this constitution, with the applicable provisions of the Constitution of the United States, with the Puerto Rican Federal Relations Act, and with Public 39 stat. 951. Law 600, Eighty-first Congress, adopted in the nature of a compact**": And provided further, That the constitution of the Commonwealth of Puerto Rico hereby approved shall become effective when the Constitutional Convention of Puerto Rico shall have declared in a formal resolution its acceptance in the name of the people of Puerto Rico of the conditions of approval herein contained, and when the Governor of Puerto Rico, being duly notified by the proper officials of the Constitutional Convention of Puerto Rico that such resolution of acceptance has been formally adopted, shall issue a proclamation to that effect."

Law 447 included amendments by Congress to the Constitution of Puerto Rico that would enter into effect once the delegates of the Constituent Convention, elected by Puerto Ricans, validated their acceptance, which occurred on July 10, 1952. One of those

amendments introduced by Congress established that any amendment or revision to the powers and prerogatives established in the Constitution of Puerto Rico must be carried out according to the process provided by Law 600 and in harmony with the Federal Constitution and the Federal Relations Law. Therefore, Laws 600 and 447 frame and validate the basic principle of "government by consent of the governed."

More than half a century later, on June 30, 2016, Pub, Law 114-187, better known as the Puerto Rico Oversight, Management, and Economic Stability Act ("PROMESA") was approved. The Fiscal Oversight Board ("Board") consists of seven (7) members appointed by the President of the United States and has the power to approve, disapprove, or modify the General Budget of the Commonwealth of Puerto Rico and impose a Fiscal Plan which will govern all aspects of its operation, spending, investment, the appointment of services, among others, of its government.

Unlike the process followed to approve other binding laws on its political relationship with Puerto Rico, such as Law 600 and Law 447, the Congress of the United States of America did not consult Puerto Ricans regarding the change that PROMESA introduced regarding the prerogatives of self-government framed in its Constitution. The political condition of Puerto Rico does not allow it to participate in these momentous determinations.

Puerto Rico deserves the opportunity to develop and carry out a process that allows it to express itself in a democratic and binding way about its political condition. The historical moment requires it. This Legislative Assembly seeks to promote a new model of political association based on the will of the people, as expressed through the vote, and whose future relationship is non-colonial and is not subject to the plenary powers of Congress under the territorial clause. It is in the power of the US Congress to express itself on what are the viable options that Puerto Ricans have to define their political preference and encourage this to be done through inclusive, participatory, and, above all, binding processes. These options must include the neither territorial nor

colonial Commonwealth, the entry of Puerto Rico as a state of the American nation, free sovereign association, and independence.

For this reason, this Legislature requires and formally summons the Congress of the United States of America to express itself, clearly and forcefully, on the alternatives that it is willing to consider to resolve the political relationship between Puerto Rico and the United States of America. , and that, in its expression, promotes a binding, inclusive and participatory process of all ideological sectors of Puerto Rico.

BE IT RESOLVED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

1 Section 1.- This Legislature requires and calls upon the Congress of the United
2 States of America to promote and designate a binding, inclusive, and participatory
3 process for the ideological sectors of Puerto Rico, and to promote the Commonwealth in
4 a new model of political association based on the will of the people, as expressed through
5 the vote, and whose future relationship is non-colonial and is not subject to the plenary
6 powers of Congress under the territorial clause; the entry of Puerto Rico as a state of the
7 American nation; sovereign free association; and independence as preferences for
8 political relations with the United States of America.

9 Section 2.- A copy of this Concurrent Resolution, translated into English, will be sent to
10 all members of the Congress of the United States of America, its Speaker, and the
11 Secretary-General of the United Nations.

12 Section 3.- This Concurrent Resolution will take effect immediately after its approval.